

No. 11-1583

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

OCT 24 2011

VAN CHESTER THOMPkins, JR.,

Petitioner-Appellant,

V.

MARY BERGHUIS, Warden,

Respondent-Appellee.

LEONARD GREEN, Clerk

ORDER

BEFORE: BOYCE F. MARTIN, JR., Circuit Judge.

Van Thompson, a Michigan prisoner proceeding pro se, appeals a district court order denying his motion for relief from judgment filed under Federal Rule of Civil Procedure 60(b). Thompson sought relief from the district court's judgment denying his petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. Thompson moves this court for a certificate of appealability, to proceed in forma pauperis and appointment of counsel.

In 2002, a jury convicted Thompkins of first-degree murder, assault with intent to commit murder, and several firearms-related charges. After exhausting the state appeals process, Thompkins filed a petition for a writ of habeas corpus, which the district court denied. This court reversed the district court's decision in part. *Thompkins v. Berghuis*, 547 F.3d 572 (6th Cir. 2008). The United States Supreme Court granted certiorari to review the decision and, on June 1, 2010, reversed this court's decision and remanded with instructions to deny the petition. *Berghuis v. Thompkins*, — U.S. —, 130 S. Ct. 2250 (2010).

The motion for a certificate of appealability is granted. The motion to proceed in forma pauperis is also granted. The clerk is directed to appoint counsel, establish a briefing schedule and shall place this case on the oral argument calendar.

ENTERED BY ORDER OF THE COURT

Michael J. Lee

Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Leonard Green
Clerk

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Van Chester Thompkins Jr.
Lakeland Correctional Facility
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Coldwater, MI 49036

Re: Case No. 11-1583, *Van Thompkins, Jr. v. Mary Berghuis*
Originating Case No. : 05-70188

Dear Sir or Madam,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Florence P. Ebert
Case Manager
Direct Dial No. 513-564-7026

cc: Mr. David J. Weaver

Enclosure